

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PHILLIP MINUCCI,

Plaintiff,

09 Civ. 6595 (PKC)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

SUSAN A. CONNELL, Superintendent Oneida
Correctional Facility,,

Defendant.
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P. KEVIN CASTEL, District Judge:

This habeas petition was referred to Magistrate Judge Frank Maas for a report and recommendation. (Order of Aug.26, 2009; Doc # 10) Based upon Mr. Minucci's decision to withdraw his petition, Judge Maas issued a Report and Recommendation, dated August 6, 2010, which recommended that the action be dismissed (the "R & R").

The R & R advised the parties that they had ten days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called petitioner's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Petitioner received clear notice of the consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992). See also Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

There is no manifest injustice in honoring this petitioner's decision, confirmed on the record, to withdraw his petition.

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>9/13/10</u>

The R & R is adopted and the action is dismissed. The case is closed.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'P. Castel', is written above a horizontal line.

P. Kevin Castel
United States District Judge

Dated: New York, New York
September 13, 2010